

CERTIFIED FOR PUBLICATION
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

In re JOSHUA J., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSHUA J.,

Defendant and Appellant.

F046430 & F046858

(Super. Ct. No. 01CEJ601131-2)

MODIFICATION OF OPINION

[NO CHANGE IN JUDGMENT]

THE COURT:

IT IS ORDERED that the opinion filed herein on May 12, 2005, and reported in the Official Reports (___ Cal.App.4th ___) be modified in the following particulars:

On page 6 of the typewritten opinion, the second full paragraph (lines 12-27) is deleted and the following substituted therefor:

While the *Hester* majority felt “compelled by *Sanders* to limit *Tyrell J.* to its facts” (*People v. Hester, supra*, 119 Cal.App.4th at p.404), it noted that the Supreme Court in *Tyrell J.* stated “the purpose of imposing a search condition on a juvenile was to deter future misconduct by the juvenile. [(*In re Tyrell J., supra*, 31 Cal.4th at p. 87.)] This is the same purpose the Supreme Court found for imposing warrantless search

conditions on adult offenders. (*People v. Sanders, supra*, 31 Cal.4th at p. 333, citing *People v. Reyes, supra*, 19 Cal.4th at p. 753.) Therefore we cannot ascertain from *Tyrell J.* any special consideration of the juvenile justice system that would justify departure from the *Sanders* analysis.” (*People v. Hester, supra*, at p. 404.)

As a corollary, we observe that in the *Tyrell J.* opinion itself the Supreme Court’s primary analysis was that a juvenile probationer’s right to be protected from a search by an officer not knowing the juvenile was on search-conditioned probation was based on the same “reduced expectation of privacy” analysis that applied to adult probationers. (*In re Tyrell J., supra*, 8 Cal.4th at p. 85.) The *Tyrell J.* court stated, “As a general rule, ‘[adult] probationers “have a reduced expectation of privacy, thereby rendering certain intrusions by governmental authorities ‘reasonable’ which otherwise would be invalid under traditional constitutional concepts, at least to the extent that such intrusions are necessitated by legitimate governmental demands.”’ [Citations.] We believe this observation applies fully to juvenile probationers as well.” (*Ibid.*, brackets in original.) Only as a secondary matter, the *Tyrell J.* court added, “Moreover, imposing a strict requirement that the searching officer must always have advance knowledge of the search condition would be inconsistent with the special needs of the juvenile probation scheme.” (*Id.* at pp. 86-87.) We read this statement as not meant to distinguish juveniles from adults, but rather to buttress the court’s reduced-expectation-of-privacy analysis, which no longer provides any foundation for the argument, as we have since learned from *Sanders*.

This modification does not effect a change in the judgment.

VARTABEDIAN, J.

WE CONCUR:

DIBIASO, Acting P. J.

HARRIS, J.